

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

1 ANTONIO RIVERA DIAZ, et al.,  
2

3 Plaintiffs,  
4

v.  
5

CIVIL NO. 98-2202 (RLA)

6 AMERICAN AIRLINES,  
7

Defendant.  
8

MINUTES OF SETTLEMENT CONFERENCE  
HELD ON AUGUST 25, 1999

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U.S. DISTRICT COURT  
SAN JUAN, P.R.

9 At the SETTLEMENT CONFERENCE held on August 25, 1999 from 4:15  
10 p.m. to 4:50 p.m. plaintiff was represented by RAFAEL A. OLIVERAS,  
11 ESQ. and defendant by ADRIADNA ALVAREZ, ESQ.  
12

13 Defendant concedes that plaintiff is entitled to receive  
14 benefits under the early retirement provisions of the plan but is  
15 unable to do so until plaintiff submits an application which he has  
16 never done. Further, defendant questions our jurisdiction. ERISA  
17 requires the exhaustion of remedies, i.e., that the benefits be  
18 requested and denied prior to coming to court. Counsel for  
19 defendant indicated that she had provided opposing counsel with the  
20 pertinent application forms without any response.

21 Plaintiff's counsel advised that his client's failure to  
22 request benefits was due to the lack of notice as required by ERISA.  
23 Defendant argues, however, that the notice requirement is upon the  
24 Plan Administrator, not the employer and that defendant had  
25 attempted to give notice on two separate occasions.  
26

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Counsel for plaintiff indicated that his client had encountered mental problems after his termination from employment which explained the undue delay in showing any interest in early retirement benefits.

6 It is undisputed that plaintiff may receive benefits  
7 prospectively from the date he submits the application. Defendant  
8 advised that the retroactive payment of benefits was not possible  
9 under the plan. To do so would constitute a violation of its  
10 fiduciary duty and subject it to dismantling by IRS. However,  
11 plaintiff rejected any relief limited to prospective payments.

12 Given the impasse, the parties will submit their respective  
13 dispositive motions.

14 Plaintiff shall serve defendant his sur-reply, if warranted,  
15 no later than September 15, 1999. Defendant shall file the  
16 dispositive motion package no later than September 20, 1999.

18 Plaintiff's counsel shall provide opposing counsel with the  
19 last page of all his dispositive motions and responses served thus  
20 far which will be submitted with his **original** signature.

IT IS SO ORDERED.

?? In San Juan, Puerto Rico, this 31 day of August, 1999.

R. A. T.

RAYMOND L. ACOSTA  
United States District Judge